**IN THE HIGH COURT OF HIMACHAL PRADESH**

**SHIMLA**

CWP No. 340 of 2007.

Date of Decision: 20.3.2007.

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Smt. Prem Kaur … Petitioner.

Versus.

State of H.P. & anr ..Respondents.

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Coram:

**The Hon'ble Mr. Justice Deepak Gupta, Judge.**

**The Hon'ble Mr. Justice Suriinder Singh, Judge.**

**Whether approved for reporting?**

For the Petitioner: Mr. R.R.Rahi, Advocate.

For the Respondents: Mr. M.S.Chandel, AG with Mr. R.M.Bisht, Dy. A.G.

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**Per Deepak Gupta, J (Oral).**

The petitioner herein filed an original application before the learned Tribunal wherein she prayed that her date of birth in her service record has wrongly been recorded as 20.12.1945 and her actual date of birth is August 20, 1950. Even according to the petitioner, she came to know about the fact that her date of birth has been wrongly recorded as far back as in 1980 when she appeared in her matriculation examination. Thereafter, according to the petitioner, she moved some representations for correction of her date of birth.

From the record, we find that one of the representations for correction of date of birth was rejected as far back as on 22.2.1989. Even thereafter the petitioner did not approach any Court of Tribunal but kept on making representations and the last such representation was rejected in

the year 1999 by the State on the ground that such a belated claim for alteration in the date of birth could not be entertained.

By now it is well settled that an employee must approach the employer with alacrity for change in date of birth. An employee should not make his/her request for change in the date of birth at the fag end of his/her career when he/she is going to retire and then approach the Court or Tribunal. This Court in **Narinder Kumar vs. Union of India and others,** Latest HLJ, 2007 (HP) 57 after considering the law laid down by the apex Court **in State of Gujarat and Ors. Versus Vali Mohmed Dasabhai Sindhi,** JT 2006 (6) SC 468 held as follows:-

> "8. A perusal of the aforesaid law as laid down by the apex Court clearly shows that the request for change of the date of birth must be made within the time prescribed by the rules or if such time is not prescribed by the rules, then such application must be made within a reasonable time. In the present case, the rules prescribe that such request must be made within five years of joining service. The request made at the fag end of the career, a few years before retirement can never be said to be a request made within a reasonable time under any circumstances.
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> 9. The apex court has clearly laid down that the change in the date of birth of an employee not only affects the employee concerned but it may adversely affect the rights of other employees who are the colleagues or juniors of the person who applies for correction of his date of birth. For this reason, it is imperative that the request for change of date of birth should be made at the earliest stage. "

Keeping in view the law laid down by the Apex Court and the earlier pronouncement of this Court , we find that the prayer of the petitioner for change in her date of birth made at the fag end of her career could not be entertained and the learned Tribunal has rightly rejected the original application of the petitioner .

The writ petition is dismissed in limine.

( Deepak Gupta ), J.

March 20, 2007. ( Surinder Singh ), J.

s.